

The Honorable Chief Judge David G. Estudillo

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA**

PAUL D. ETIENNE, JOSEPH J. TYSON,
THOMAS A. DALY, FRANK R.
SCHUSTER, EUSEBIO L. ELIZONDO,
GARY F. LAZZERONI, GARY M.
ZENDER, ROBERT PEARSON,
LUTAKOME NSUBUGA, JESÚS
MARISCAL, MICHAEL KELLY,

Plaintiffs,

v.

ROBERT W. FERGUSON, in his official
capacity as Governor of Washington,
NICHOLAS W. BROWN, in his official
capacity as Attorney General of
Washington, LEESA MANION, in her
official capacity as King County Prosecuting
Attorney, LARRY HASKELL, in his official
capacity as Spokane County Prosecuting
Attorney, JOSEPH BRUSIC, in his official
capacity as Yakima County Prosecuting
Attorney, RANDY FLYCKT, in his official
capacity as Adams County Prosecuting
Attorney, CURT LIEDKIE, in his official
capacity as Asotin County Prosecuting
Attorney, ERIC EISINGER, in his official
capacity as Benton County Prosecuting
Attorney, ROBERT SEALBY, in his official
capacity as Chelan County Prosecuting
Attorney, MARK NICHOLS, in his official

Case No. 3:25-cv-05461-DGE

**DECLARATION OF MICHAEL
KELLY IN SUPPORT OF
PLAINTIFFS' MOTION FOR
PRELIMINARY INJUNCTION**

capacity as Clallam County Prosecuting Attorney, TONY GOLIK, in his official Capacity as Clark County Prosecuting Attorney, DALE SLACK, in his official capacity as Columbia County Prosecuting Attorney, RYAN JURVAKAINEN, in his official capacity as Cowlitz County Prosecuting Attorney, GORDON EDGAR, in his official capacity as Douglas County Prosecuting Attorney, MICHAEL GOLDEN, in his official capacity as Ferry County Prosecuting Attorney, SHAWN SANT, in his official capacity as Franklin County Prosecuting Attorney, MATHEW NEWBERG, in his official capacity as Garfield County Prosecuting Attorney, KEVIN McCRAE, in his official capacity as Grant County Prosecuting Attorney, NORMA TILLOTSON, in her official capacity as Grays Harbor County Prosecuting Attorney, GREGORY BANKS, in his official capacity as Island County Prosecuting Attorney, JAMES KENNEDY, in his official capacity as Jefferson County Prosecuting Attorney, CHAD ENRIGHT, in his official capacity as Kitsap County Prosecuting Attorney, GREGORY ZEMPEL, in his official capacity as Kittitas County Prosecuting Attorney, DAVID QUESNEL, in his official capacity as Klickitat County Prosecuting Attorney, JONATHAN MEYER, in his official capacity as Lewis County Prosecuting Attorney, TY ALBERTSON, in his official capacity as Lincoln County Prosecuting Attorney, MICHAEL DORCY, in his official capacity as Mason County Prosecuting Attorney, ALBERT LIN, in his official capacity as Okanogan County Prosecuting Attorney, MICHAEL ROTHMAN, in his official capacity as Pacific County Prosecuting Attorney, DOLLY HUNT, in her official Capacity as Pend Orielle County Prosecuting Attorney, MARY ROBNETT, in her official capacity as Pierce County Prosecuting Attorney, AMY VIRA, in her official capacity as San Juan County Prosecuting Attorney, RICH WEYRICH, in his official Capacity as

1 Skagit County Prosecuting Attorney, ADAM
2 KICK, in his official capacity as Skamania
3 County Prosecuting Attorney, JASON
4 CUMMINGS, in his official capacity as
5 Snohomish County Prosecuting Attorney,
6 ERIKA GEORGE, in her official capacity as
7 Stevens County Prosecuting Attorney, JON
8 TUNHEIM, in his official capacity as
9 Thurston County Prosecuting Attorney, DAN
10 BIGELOW, in his official capacity as
11 Wahkiakum County Prosecuting Attorney,
12 GABE ACOSTA, in his official capacity as
13 Walla Walla County Prosecuting Attorney,
14 ERIC RICHEY, in his official capacity as
15 Whatcom County Prosecuting Attorney, and
16 DENIS TRACY, in his official capacity as
17 Whitman County Prosecuting Attorney,

18
19 Defendants.

1 I, Michael Kelly, hereby declare as follows:

2 1. I am over the age of eighteen and competent to make this declaration. I make this
3 declaration based on personal knowledge about which I am competent to testify.

4 2. I am a priest incardinated in the Romand Catholic Diocese of Yakima and parochial
5 vicar of Holy Family Catholic Church in Yakima. As a priest of the Diocese of Yakima, I have
6 the faculties to, and do, hear the Sacrament of Confession throughout the Diocese of Yakima.

7 3. I have reviewed the declaration of Bishop Joseph J. Tyson, including the
8 articulation of the teachings of the Roman Catholic Church regarding the Sacrament of Confession
9 and the sacramental seal. I sincerely believe in the Roman Catholic faith and the teaching of the
10 Roman Catholic Church, including with respect to the Sacrament of Confession and sacramental
11 seal, as articulated in the declaration of Bishop Joseph J. Tyson.

12 4. As a priest of the Diocese of Yakima, I am required to, and do, adhere to the policies
13 of the Diocese of Yakima concerning the reporting of child abuse and neglect. Pursuant to those
14 polices, I am required to, and do, report to proper law enforcement agencies or the department of
15 children, youth, and families whenever I have reasonable cause to believe child abuse or neglect
16 has occurred. The sole exception to this reporting requirement is information that I learn in the
17 confessional and protected by the sacramental seal.

18 5. Moreover, because absolution given by a priest requires true contrition for all
19 confessed sins, I could counsel any penitent disclosing child abuse or neglect to self-report and
20 obtain the necessary temporal intervention and help. If I suspect based on what is disclosed during
21 confession that the penitent is suffering from abuse or neglect, the penitent has engaged in abuse
22 or neglect, or some third party has engaged in abuse or neglect, I could invite the penitent for
23 counseling outside of the Sacrament of Confession. If the penitent were to agree to such
24 counseling and I were to learn information in that non-sacramental counseling providing me with
25 reasonable cause to believe abuse or neglect has been committed, I am obligated to, and would,
26 report that suspected abuse or neglect to proper law enforcement agencies or the department of
27 children, youth, and families.

6. Given the intrusion on the sacramental seal and my sincerely held religious belief in the teaching of the Roman Catholic Church regarding the sacramental seal, I will not comply with the amendments to RCW § 26.44.030 effected by Senate Bill 5375—to the point of going to jail or incurring a fine or civil liability.

* * *

I declare under penalty of perjury that the foregoing is true and correct.


Michael Kelly

EXECUTED this 5th day of June, 2025, at Yakima, Washington.